IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.71 OF 2005

Precision Fasteners Ltd. & Ors. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

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Mr.Haresh Jagtiani, Sr.Advocate with Mr.Hitesh Dabhi, Ms.Ratna Kaul i/b M/s.Haresh Jagtiani & Associates for Petitioners.

Ms.S.V.Gajare, A.P.P. for Respondent No.1.

Ms.Manoj Mhambry i/b K.R.Parekh for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 25, 2005.

P.C.

1. Heard Counsel for the parties.

2. Rule. Rule made returnable forthwith by consent. Ms.Gajare, A.P.P. waives notice for Respondent No.1. Ms.Mhambry waives notice for Respondent No.2/complainant.

3. As short question is involved, Petition is taken up for final disposal forthwith, by consent.

4. By this Petition, it is prayed that the criminal action initiated by the Respondent No.2/complainant before the Court of Metropolitan Magistrate, 10th Court at Andheri being Criminal Case No.4824/S/2002 be quashed and set-aside. This relief is sought on the assertion that the Petitioners have no connection with the transaction between the Respondent/Complainant with the original accused No.1. Indeed, original accused No.1 is the dealer of Petitioner No.1.

5. Be that as it may, as there is nothing on record to show that there is any transaction between Petitioners and the original complainant, coupled with the fact that none of the Petitioners are signatory to the cheque in question, the Petitioners are justified in contending that the criminal action instituted against the original accused No.1 for the dishonour of cheque issued by him cannot proceed against them. The only averment

made in the complaint on account of which the Petitioners have been named as co-accused can be discerned from paragraph 4 of the complaint. It is stated that the original accused No.1 is a dealer of accused No.2 (Petitioner No.1) and is carrying on his business under the name and style of M/s. Ridhi Marketing. Even accepting the said statement as it is, there is no mention in the complaint that the cheque has been issued for an on behalf of the Petitioners herein.

6. Viewed in this perspective, Petition ought to succeed. Petition is made absolute in terms of prayer clause (a). In other words, above numbered criminal case will now proceed only against accused No.1 in accordance with law.

A.M.KHANWILKAR, J.